

Department of the Interior
U.S. Fish & Wildlife Service

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News Release



For Release on May 25, 2004
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R1-04-053

Service Proposes Regulations Governing Revocation of Incidental Take Permits

The U.S. Fish and Wildlife Service today repropose regulations regarding incidental take permits that are granted under the Endangered Species Act. The regulations outline the circumstances under which these permits can be revoked.

The Service grants incidental take permits to landowners who have voluntarily agreed to develop Habitat Conservation Plans. These plans, or HCPs, provide a framework for landowners to conserve threatened and endangered species on their property. In return, the permits give landowners authorization for incidental take of listed species resulting from their otherwise lawful development or land use activities.

The regulations governing revocation of incidental take permits were first published in June 1999. But a U.S. District Court judge for the District of Columbia ruled the Service had violated the Administrative Procedure Act by failing to provide the public with an adequate opportunity to comment. To address the court ruling the Service:

- Published a final rule in the May 25th issue of the *Federal Register* withdrawing the permit revocation regulations that the court vacated.
- Published a proposed rule in the May 25th issue of the *Federal Register* that provides notice to the public and requests comments on the Service's repropose regulations for revoking incidental take permits for Habitat Conservation Plans. While the Service has not revoked an incidental take permit associated with an HCP to date, the proposed rule clarifies the very limited circumstances when this could happen. This proposed rule would allow the Service to revoke an incidental take permit only if take of listed species caused by the permitted activity will appreciably reduce the likelihood of survival and recovery in the wild of one or more of the covered species.

Specifically, the Service is seeking comments on:

- the repropose regulations for revoking incidental take permits issued in conjunction with Habitat Conservation Plans;

- the relationship between the repropoed regulations and the No Surprises regulations – which give landowners assurances that the Service will not ask for any further mitigation once a permit for a Habitat Conservation Plan is issued;
- whether the revocation standard in 50 CFR 13.28(a)(5), or some other revocation standard would be more appropriate for incidental take permits with No Surprises assurances.

The U.S. Fish and Wildlife Service is the principal Federal agency responsible for conserving, protecting and enhancing fish, wildlife and plants and their habitats for the continuing benefit of the American people. The Service manages the 95-million-acre National Wildlife Refuge System which encompasses 544 national wildlife refuges, thousands of small wetlands and other special management areas. It also operates 69 national fish hatcheries, 63 fishery resource offices and 81 ecological services field stations. The agency enforces Federal wildlife laws, administers the Endangered Species Act, manages migratory bird populations, restores nationally significant fisheries, conserves and restores wildlife habitat such as wetlands, and helps foreign governments with their conservation efforts. It also oversees the Federal Aid program that distributes hundreds of millions of dollars in excise taxes on fishing and hunting equipment to State fish and wildlife agencies.